



LEGISLATIVE FISCAL OFFICE

Fiscal Note

Fiscal Note On: **HB 106** HLS 09RS 7  
Bill Text Version: **ENGROSSED**  
Opp. Chamb. Action:  
  
Proposed Amd.:  
Sub. Bill For.:

<b>Date:</b> June 1, 2009	6:36 AM	<b>Author:</b> GREENE
<b>Dept./Agy.:</b> Revenue		
<b>Subject:</b> Exempt Certain Capital Gains From Individual Income Tax		<b>Analyst:</b> Greg Albrecht

TAX/INCOME-INDIV/EXEMPT

EG DECREASE GF RV See Note

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Provides for a deduction for net capital gains

Current law subjects capital gains to state individual income tax if those gains are included in adjusted gross income.

Proposed law exempts from state individual income taxation net capital gains (income taxed at the federal capital gains rate) arising from the sale or exchange of an equity interest in or substantially all of the assets of a non-publicly traded business organization commercially domiciled in Louisiana.

Effective for all taxable periods beginning on or after January 1, 2010.

EXPENDITURES	2009-10	2010-11	2011-12	2012-13	2013-14	5 -YEAR TOTAL
State Gen. Fd.	\$0	\$0	\$0	\$0	\$0	\$0
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	\$0
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	\$0	\$0	\$0	\$0	\$0	\$0
Annual Total	\$0	\$0	\$0	\$0	\$0	\$0

REVENUES	2009-10	2010-11	2011-12	2012-13	2013-14	5 -YEAR TOTAL
State Gen. Fd.	\$0	DECREASE	DECREASE	DECREASE	DECREASE	\$0
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	\$0
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	\$0	\$0	\$0	\$0	\$0	\$0
Annual Total	\$0	\$0	\$0	\$0	\$0	\$0

EXPENDITURE EXPLANATION

The Department of Revenue indicates that modifications to forms, computer programming and, and tax processing systems to incorporate this change to taxable income may involve some \$34,000 of one-time costs of staff time. Some minimal recurring costs for additional documentation handling and taxpayer inquiries will also likely be incurred.

REVENUE EXPLANATION

State income tax data does not distinguish any form of net capital gains within adjusted gross income, and the bill targets a narrow form of gains arising from particular circumstances. The revenue losses resulting from this bill can not be determined. Losses resulting from the bill are likely to be volatile from year to year. Capital gains in general are volatile and a narrow form of those gains are likely to be even more volatile. Thus, in some periods revenue losses may be quite small, possibly amounting to only a few hundred thousand dollars or less. In other periods revenue losses could be quite large, possibly amounting to a few million dollars. It would require \$8.3 million of gains (for one transaction or a number of transactions) relieved of 6% of tax to generate \$500,000 of revenue loss.

Revenue impacts depend on the number of affected transactions occurring each year and the size of those transactions. Revenue losses are also likely to be larger during periods of economic expansion and asset appreciation, and smaller during periods of economic contraction and asset depreciation. The bill appears to target sales of privately held businesses or interests in such businesses. It has not been possible to determine the annual number and/or value and net gains of such sales, but they would encompass many small business or proprietorship sales that likely occur on a regular basis (bars, restaurants, franchise ownership, professional and business service firms etc.). While some taxpayers may structure these sales to minimize their taxable value, these tax strategies require certain conditions to be profitable and impose costs. These situations are likely to be primarily associated with relatively fewer larger transactions where the costs can be justified against the maximum tax relief of 6% of the net gain. The bulk of typical business sales are not likely to involve very sophisticated tax minimization strategies. Thus, the number of affected sales could be numerous, and aggregate net gains being exempted from tax could be substantial in any given year.

Senate

☐ 13.5.1 >= \$500,000 Annual Fiscal Cost

☒ 13.5.2 >= \$500,000 Annual Tax or Fee Change

Dual Referral Rules

House

☐ 6.8(F) >= \$500,000 Annual Fiscal Cost

☐ 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease

H. Gordon Monk  
Legislative Fiscal Officer